

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

AUGUSTUS M. BROWN II

VS.

CIVIL ACTION NO. 4:08CV71-WAP-DAS

BAYOU ACRES, WALTER
McDAVID, SOUTHLAND
MANAGEMENT CORPORATION,
and JEFFERSON COUNTY
ASSISTED HOUSING CORPORATION

ORDER

This matter is before the Court on motion of the defendant, Southland Management Corporation, for leave to file an answer and notice of intent to defend (# 15). Also before the Court is the motion of Bayou Acres to set aside default and for leave to file an answer to the complaint (# 21). In addition, Bayou Acres has filed a motion for leave to file an answer to the complaint (# 23). The Court will address each of these motions in turn.

With its motion for leave to file an answer, Southland Management contends that the plaintiff did not perfect service upon it pursuant to the Federal Rules of Civil Procedure. In addition to seeking leave to file an answer, Southland asks that any default entered against it be set aside. Because no default has been entered against Southland that aspect of its motion is moot. However, the Court finds its motion for leave to file an answer is well taken, and because Southland filed an answer along with the present motion, that answer will be deemed filed as of October 28, 2008.

Next, Bayou Acres moves to set aside a default and moves for leave to file an answer to the complaint. Like Southland, Bayou Acres contends the plaintiff did not perfect service upon it pursuant to the Federal Rules of Civil Procedure. Bayou Acres, however, argues service was not

perfected because Bayou Acres is not an entity. With the motion, Bayou Acres – a non-entity – explains the apartment complex named Bayou Acres Apartments is owned by Metcalfe Housing Corporation, a Mississippi non-profit corporation. Because the plaintiff has alleged what appears to be several claims related to his residence in Bayou Acres Apartments, Bayou Acres – a non-entity – now moves for entry of default to be set aside and it be allowed to answer the complaint. After considering Bayou Acres motion, the Court finds it to be well taken, and it shall be granted.

Finally, Bayou Acres moves for leave to file an answer to the complaint. Because this issue is addressed in the previous motion, and for the reasons stated regarding that motion, it shall be granted.

IT IS, THEREFORE, ORDERED that Southland Management Corporation's motion for leave to file an answer and notice of intent to defend (# 15) is hereby GRANTED. Southland's answer to the complaint will be deemed filed as of October 28, 2008.

IT IS FURTHER ORDERED that Bayou Acres' motion to set aside default and for leave to file an answer to the complaint (# 21) is hereby GRANTED.

IT IS FURTHER ORDERED that Bayou Acres' motion for leave to file an answer to the complaint (# 23) is hereby GRANTED.

SO ORDERED, this the 19th day of November 2008.

/s/ David A. Sanders

UNITED STATES MAGISTRATE JUDGE